

# **EXHIBIT 4**

## Trial Transcript - Vol. X - 5/7/10 - NKS Distributors v Tigani - Del. Chanc. No. 4640-VCP

SHEET 16 PAGE 2607

2607

C. J. Tigani - Cross

- 1 Q. All right. In any event, by having a  
2 domain or administrator password, you also had access  
3 to all of the passwords used by everyone in the NKS  
4 computer system; right?
- 5 A. Yes, I did.
- 6 Q. And any time you wanted to, that meant  
7 you could simply print out a list of everybody's  
8 passwords; right?
- 9 A. There was -- it's not that easy but,  
10 yes, you can get their password. You don't just print  
11 it out. It's on the screen and there's -- yes, you  
12 can, but not print it out.
- 13 Q. All right. The passwords that you had  
14 access to included not only everyone's NKS passwords  
15 for the server, but also the passwords for their  
16 personal accounts, such as AOL; correct?
- 17 A. Not everyone's. But if they used a  
18 company computer, all of their information was  
19 available.
- 20 Q. So if they used their -- if they used  
21 the NKS computer to access an AOL account or some  
22 other personal e-mail account, you had access to their  
23 password; right?
- 24 A. Not all the time, no. It depends on

PAGE 2609

2609

C. J. Tigani - Cross

- 1 A. I put it on my own.
- 2 Q. Because that's what you use, an Apple,  
3 isn't that correct?
- 4 A. Right.
- 5 Q. You bought three licenses for that  
6 software?
- 7 A. Yes.
- 8 Q. So you installed them on your computer  
9 at the office and also one at home?
- 10 A. I don't think -- I only installed it  
11 on one. I don't know if I installed it on two. I  
12 think you have to buy three licenses. I'm not sure.
- 13 Q. In April 2008 you purchased a software  
14 called Kernel Recovery for Outlook Express password;  
15 right?
- 16 A. Yes.
- 17 Q. That was a software that was intended  
18 to be able to access people's passwords?
- 19 A. I don't know if it was or not. I  
20 didn't use that. I believe I testified that I didn't  
21 use it.
- 22 Q. You didn't use the software?
- 23 A. Right.
- 24 Q. You didn't use it because you found

PAGE 2608

2608

C. J. Tigani - Cross

- 1 the time. It depends on when. Not from 2003 at all.  
2 You know, Bob Tigani's, yes, we had access to and  
3 others.
- 4 Q. All right.
- 5 A. That is in our handbook, as Internet  
6 usage, it's covered under that.
- 7 Q. So if an NKS employee changed his or  
8 her password, nevertheless you would still have access  
9 to those passwords because you had the domain or  
10 administrator status; isn't that right?
- 11 A. That's correct.
- 12 Q. Now, you had purchased over time a  
13 variety of software packages to enable you to monitor  
14 e-mail, didn't you?
- 15 A. Yes.
- 16 Q. And, for example, in February 2008,  
17 you purchased something called SpectorSoft?
- 18 A. Yes.
- 19 Q. And that's described as a company-wide  
20 monitoring software, isn't it?
- 21 A. Yes.
- 22 Q. All right. And that was specifically  
23 designed to be installed on Apple Macintosh computers;  
24 right?

PAGE 2610

2610

C. J. Tigani - Cross

- 1 out you already had access to the passwords by other  
2 means; right?
- 3 A. I was putting my documents together.  
4 And I keep all my e-mail. And I get new computers  
5 periodically and I save my computers. And I have  
6 e-mails stored from many years ago. That's how come I  
7 can produce a document from 2003 that's not on the  
8 server. And sometimes, when they're password  
9 protected, you need to use it to get into your own  
10 e-mail. So that's what those things are intended to  
11 be used for. That specific program I never used.
- 12 Q. All right. In April 2008, same time  
13 period, you signed up for a course on how to hack into  
14 computers, didn't you?
- 15 A. Yes.
- 16 Q. And that was through a company called  
17 Offensive Security; right?
- 18 A. Yes.
- 19 Q. And you recall being down in the  
20 Caribbean April 29 and 30, 2008, and spending a good  
21 bit of time down there e-mailing back and forth with a  
22 gentleman named Mr. Radnag from Offensive Security?
- 23 A. Yes.
- 24 Q. And you were trying to hack into NKS's

## Trial Transcript - Vol. X - 5/7/10 - NKS Distributors v Tigani - Del. Chanc. No. 4640-VCP

SHEET 17 PAGE 2615

2615

C. J. Tigani - Cross

- 1 Q. You didn't produce a privilege log,  
2 did you?  
3 A. No. But I produced all my documents  
4 anyway.  
5 Q. You didn't withhold privileged  
6 documents?  
7 A. I redacted some documents. I withheld  
8 some clearly privileged documents from Mr. Clark. But  
9 a lot of those documents have been produced. But no,  
10 I did not produce a privilege log.  
11 Q. Okay. Now, you formerly had an  
12 employee at NKS named [REDACTED] right?  
13 A. NKS employed [REDACTED] yes.  
14 Q. And there was an employment dispute  
15 with him; correct?  
16 A. Yes.  
17 Q. And there was a suit. And in  
18 connection with that suit you started reading his  
19 e-mails in about November 2007; right?  
20 A. I read his e-mail for about a week.  
21 Q. Okay. And in his case you even went  
22 into his online Fidelity Investments account called a  
23 529B account through an online service; is that right?  
24 A. Yes.

PAGE 2616

2616

C. J. Tigani - Cross

- 1 Q. Okay. And in order to do that you  
2 first had to get his password from the NKS server;  
3 right?  
4 A. Correct.  
5 Q. And you also had to get his Social  
6 Security number. So you directed Darlene Wunner to  
7 get that for you; correct?  
8 A. I guess I did. I may have.  
9 Q. Okay. And then you needed a password  
10 that Chris Clifton got for you, and Chris Clifton was  
11 the IT director at NKS; right?  
12 A. Yes.  
13 Q. And you used all that information and  
14 went into [REDACTED]'s Fidelity Investments account;  
15 right?  
16 A. That is because [REDACTED] entered  
17 into an agreement with a supplier to deposit money  
18 into his children's 529B college savings account plan  
19 in order to get Anheuser-Busch wholesalers to  
20 improperly invest in Tequila. He was taking a  
21 kickback and putting it into his account. I found out  
22 about it because he recommended that NKS buy  
23 \$2 million worth of Tequila. And a brand-new Tequila.  
24 I said you must be getting something under the table.

PAGE 2617

2617

C. J. Tigani - Cross

- 1 Sure enough he was.  
2 Q. Did you know it was illegal for you to  
3 go into his 529B account?  
4 A. I did not.  
5 Q. Okay. Do you recall asking Chris  
6 Clifton to get you the passwords for [REDACTED]'s bank  
7 accounts at Wilmington Trust Company and  
8 Bank of America?  
9 A. It wouldn't surprise me, but I didn't  
10 look at them.  
11 Q. But you had -- you obviously got the  
12 passwords because you wanted to be able to have the  
13 ability to look at them; right?  
14 A. If he had put NKS money or kickback  
15 money into his Wilmington Trust account, when I looked  
16 at his Fidelity account I saw that there was no  
17 activity left. And he was fired the next day or the  
18 day after and I never looked at his accounts again.  
19 Q. Do you recall, sir, that in the [REDACTED]  
20 litigation, the Delaware Superior Court determined  
21 that you had intentionally destroyed a hard drive that  
22 was evidence in the case?  
23 A. I believe that's what was determined.  
24 That was completely in error. And I did not

PAGE 2618

2618

C. J. Tigani - Cross

- 1 intentionally destroy a hard drive. And the Court  
2 misunderstood what had happened.  
3 Q. Okay. Who was the judge who made that  
4 error by determining that you had intentionally  
5 destroyed evidence?  
6 A. I honestly don't remember his name.  
7 Q. Okay.  
8 A. Your Honor, I would like to explain  
9 that, if you would allow me.  
10 THE COURT: You'll get your time in  
11 redirect. You should keep a note of it -- that you  
12 want to mention that topic.  
13 BY MR. GALLAGHER:  
14 Q. Just to identify the order, would you  
15 turn to NKS/RFT Exhibit 379 which is at Tab 50 of your  
16 witness binder.  
17 THE COURT: I'm sorry. Number again?  
18 MR. GALLAGHER: NKS/RFT Exhibit 379,  
19 and it's at Tab 50.  
20 THE COURT: All right.  
21 THE WITNESS: Judge Scott.  
22 BY MR. GALLAGHER:  
23 Q. Okay.  
24 A. Your Honor, may I explain it now? No.